

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

BENJAMIN JUSTIN BROWNLEE,

Plaintiff,

v.

J. BURNES, et al.,

Defendants.

1:23-cv-00376-HBK (PC)

ORDER GRANTING APPLICATION TO
PROCEED *IN FORMA PAUPERIS*

(Doc. No. 2)

ORDER DIRECTING PAYMENT
OF INMATE FILING FEE BY THE
CALIFORNIA DEPARTMENT OF
CORRECTIONS

ORDER DENYING DUPLICATIVE
MOTIONS AS MOOT

(Doc. Nos. 8, 9)

Plaintiff—a prisoner—initiated this action on March 3, 2023, by filing a *pro se* civil rights complaint pursuant to 42 U.S.C. § 1983. (Doc. No. 1, Complaint). Plaintiff seeks leave to proceed *in forma pauperis* on his Complaint and submitted a copy of his prison trust fund statement in support. (Doc. Nos. 2, 4).¹ Plaintiff has made the showing required by § 1915(a) to proceed *in forma pauperis* but remains obligated to pay the full statutory filing fee of \$350.00 for this action. 28 U.S.C. § 1915(b)(1). **Pursuant to § 1915(b)(1)(A), Plaintiff is obligated to make an initial payment of \$110.00² (20% of the average 6-month deposits to the prisoner's**

¹ Plaintiff also filed duplicative motions to proceed *in forma pauperis* on April 14, 2023. (Doc. Nos. 8, 9). The granting of the instant motion moots these later filed motions.

² The statute requires an initial filing fee of 20% of the greater of the six-months average monthly deposits or average monthly balance. 28 U.S.C. § 1915(b)(1)(A), (B). Plaintiff had over \$3327.75 in deposits over

1 **account).** Thereafter, Plaintiff must make monthly payments of 20% of the preceding month's
2 income credited to his trust account. The California Department of Corrections is required to
3 send as an initial payment of the lesser of \$110.00 or the remaining balance in Plaintiff's inmate
4 trust fund account, to the Clerk of the Court and subsequent payments from Plaintiff's account
5 each time the amount in her account exceeds \$10.00, until the statutory filing fee is paid in full.
6 28 U.S.C. § 1915(b)(2).

7 ACCORDINGLY, it is **ORDERED**:

8 1. Plaintiff's motion to proceed *in forma pauperis* (Doc. No. 2) is GRANTED.

9 2. **The Secretary of the California Department of Corrections, or his designee shall**
10 **forward an initial payment of the lesser amount of \$110.00 or the balance in Plaintiff's**
11 **inmate trust fund account, to the Clerk of the Court in accordance with 28 U.S.C. §**
12 **1915(b)(1)(A) and shall make future monthly payments in an amount equal to twenty**
13 **percent (20%) of the preceding month's income credited to the Plaintiff's trust account each**
14 **time the amount in the account exceeds \$10.00, in accordance with 28 U.S.C. § 1915(b)(2),**
15 **until a total of \$350.00 has been collected and forwarded to the Clerk of the Court.**

16 3. The Clerk of the Court is directed to serve a copy of this order and a copy of Plaintiff's
17 *in forma pauperis* application on the Secretary of the California Department of Corrections, via
18 the court's electronic case filing system (CM/ECF).

19 4. The Clerk of the Court is directed to serve a copy of this order on the Financial
20 Department, U.S. District Court, Eastern District of California.

21 5. Plaintiff's motions to proceed *in forma pauperis* (Doc. Nos. 8, 9) are MOOT.

22
23 Dated: April 19, 2023

24 
25 HELENA M. BARCH-KUCHTA
26 UNITED STATES MAGISTRATE JUDGE
27

28 the relevant six-month period. (See Doc. No. 4). The Court did not include the \$7,000.00 direct
restitution payment when calculating the six-month total deposits.